

**State of California
Office of Administrative Law**

In re:
Bureau for Private Postsecondary Education

Regulatory Action:

Title 05, California Code of Regulations

Adopt sections: 71396

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2017-1113-02

OAL Matter Type: Emergency Readopt (EE)

This action by the Bureau for Private Postsecondary Education (Bureau) adopts new section 71396, in title 5 of the California Code of Regulations relating to the registration of out-of-state private postsecondary institutions, including an "Application for Registration or Re-Registration of Out of State Institutions" form that is incorporated by reference. This action is a readoption of emergency action 2017-0519-02E.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 11/27/2017 and will expire on 2/27/2018. The Certificate of Compliance for this action is due no later than 2/26/2018.

Date: November 21, 2017



**Kevin D. Hull
Senior Attorney**

**For: Debra M. Cornez
Director**

**Original: Joanne Wenzel
Copy: Kent Gray**

NOTICE PUBLICATION/REGULATION SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2017-1113-02EE
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Department of Consumer Affairs/Bureau for Private Postsecondary Education		AGENCY FILE NUMBER (if any)	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

NOV 21 2017

1:56pm

2017 NOV 13 A 11:47
OFFICE OF
ADMINISTRATIVE LAW

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Out-of-State Private Postsecondary Institution Registration		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2017-0519-02E	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 71396 AMEND REPEAL	
TITLE(S) 5			
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> File & Print <input type="checkbox"/> Print Only			
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Other (Specify) _____			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input checked="" type="checkbox"/> Effective other (Specify) November 27, 2017			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal			
<input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Kent Gray		TELEPHONE NUMBER (916) 246-3907	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional) Kent.Gray@dca.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE *Deak R. Grafilo* DATE **5/13/17**
TYPED NAME AND TITLE OF SIGNATORY
DEAN R. GRAFILO, Director, Department of Consumer Affairs

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

NOV 21 2017

Office of Administrative Law

**DEPARTMENT OF CONSUMER AFFAIRS
BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**

PROPOSED EMERGENCY REGULATION TEXT

The following Article and Section are new to the California Code of Regulations.

(1) Adopt Article 3.5 of Chapter 2, Division 7.5 of Title 5 of the California Code of Regulations to read as follows:

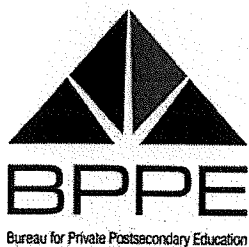
Article 3.5. Application for Registration or Re-Registration of Out-of-State Institutions

(2) Adopt Section 71396 of Division 7.5 of Title 5 of the California Code of Regulation to read as follows:

§71396. Application Form; Immediate STRF Compliance.

- (a) An applicant seeking to operate an out-of-state private postsecondary institution as defined in Section 94850.5 of the Code that is required to register with the Bureau pursuant to Section 94801.5 of the Code shall complete the Bureau's Application for Registration or Re-Registration of Out-of-State Institutions [Form Application 94801.5 (rev. 1/17)], which is hereby incorporated by reference. An applicant shall submit the completed form, the information and documentation required by Section 94801.5 of the Code, and the registration fee as provided in Section 94930.5 of the Code, to the Bureau.
- (b) An application that fails to contain all the information required by this article shall render it incomplete, and the applicant will not be eligible for registration or re-registration.
- (c) Effective July 1, 2017, even if the institution's application for registration is pending with the Bureau, the institution shall immediately comply with the requirements of the Student Tuition Recovery Fund established in the Code (commencing with Section 94923) and regulations adopted by the Bureau related to the fund for its California students, including providing student disclosures.

Note: Authority cited: Sections 94801.5 and 94877, Education Code. Reference: Sections 94801.5, 94850.5, and 94930.5, Education Code.



Bureau for Private Postsecondary Education
P.O. Box 980818
West Sacramento, CA 95798-0818

OFFICE USE ONLY
Date Stamp

SAIL Application # _____

Application fee _____ Date _____

School Code _____

Revenue Code *****

Application for Registration or Re-Registration of Out of State Institutions
(California Education Code §§ 94801.5, 94850.5, 94930.5; Title 5, California Code of Regulations §§ 71396, 74000, 76130, 76215)
(\$1,500.00 fee to register and re-register)

Effective July 1, 2017, an out-of-state private postsecondary educational institution must register with the Bureau or is not authorized to enroll California students. (Ed. Code § 94801.5.) "Out-of-state private postsecondary educational institution" means a private entity without a physical presence in California that offers postsecondary distance education to California students for a fee, regardless of whether the entity has any affiliates located in California. (Ed. Code § 94850.5.) Non-public higher education institutions that are degree granting, non-profit, and accredited are exempt and need not register. (Ed. Code § 94801.5(b).) Each registration and re-registration carries a fee of \$1,500.00 and is valid for two years. (Ed. Code §§ 94930.5(e)(1), 94801.5(d).)

To register (or re-registration after expiration of a prior registration), the following must be included with the information required in this application:

1. Verification that the institution is accredited by an accrediting agency recognized by the United States Department of Education.
2. Verification that the institution is approved to operate in the state where it maintains its main administrative location.
3. A copy of the institution's (a) catalog and (b) enrollment agreement for its California students, showing the required Student Tuition Recovery Fund disclosures.
4. A \$1,500.00 non-refundable registration fee.

Check one of the following:

☐ This is an initial application for registration. (The Bureau has not previously granted a registration.)
or

☐ This is an application for re-registration. (The Bureau previously granted a registration.)

If this is an application for re-registration, check the following statements if accurate:

- ☐ The institution certifies that it has remitted Student Tuition Recovery Fund assessments collected from its California students to the Bureau.
- ☐ The institution certifies that it has provided Student Tuition Recovery Fund disclosures to its California students in its catalog and enrollment agreement.

1. OUT-OF-STATE INSTITUTION

Legal Name of Institution: _____

Business Form (please check only one):

- ☐ sole proprietorship ☐ partnership ☐ limited liability company
☐ corporation (for profit) ☐ corporation (non-profit)

DBA or Trade Name of Institution (if different than legal name):

Institution's
Main Administrative Address:

City: State: Zip:

Phone Number: Fax Number:

Website Address:

2. INSTITUTION'S CONTACT PERSON (for this application)

Name: Email Address:

Address:

City: State: Zip:

Telephone Number: Fax Number:

3. INSTITUTION'S CALIFORNIA AGENT FOR SERVICE OF PROCESS

The institution is required to designate and maintain an agent for service of process who is physically within this state, and provide the name, address, and telephone number of the agent to the Bureau.

Name:

Address:

City: State: Zip:

Telephone Number:

4. AFFILIATED INSTITUTION(S) IN CALIFORNIA (if any)

Identify any affiliated institutions or affiliated institutional locations the out-of-state institution has in California. Attach additional sheets if necessary. An affiliate is an entity that is related to the out-of-state institution by financial interests or other means of control.

Legal Name of Affiliate Institution:

Institution/School
Code with the Bureau:

Business Form (please check only one):

- ☐ sole proprietorship ☐ partnership ☐ limited liability company
☐ corporation (for profit) ☐ corporation (non-profit)

DBA or Trade Name of Affiliate Institution or Affiliate Locations (if different than legal name):

Affiliate Institution's
California Address(es):

City: State: Zip:

Phone Number: Fax Number:

5. ACCREDITATION

Attached is verification of accreditation granted by the institution's accrediting agency that is recognized by the United States Department of Education. ☐

6. STATE AUTHORIZATION

Attached is verification that the institution is approved to operate in the state of its main administrative location. ☐

7. CATALOG AND ENROLLMENT AGREEMENT

Attached are copies of the current catalog and a sample enrollment agreement for California students, showing the required Student Tuition Recovery Fund (STRF) disclosures.

- ☐ Catalog
- ☐ Enrollment agreement

8. CERTIFICATION UNDER PENALTY OF PERJURY

I hereby certify, under penalty of perjury under the laws of the State of California, that I am a person authorized to act for and bind the applicant and that all statements, answers, and representations made on this form and any accompanying attachments are true, complete, and accurate to the best of my knowledge. By submitting this form and signing below, I am granting permission to the Bureau for Private Postsecondary Education to verify the information provided.

Authorized Signature

Date

Print or Type Name:

Title:

NOTICE ON COLLECTION OF PERSONAL INFORMATION

The information requested on this application is mandatory pursuant to Education Code sections 94801.5, 94850.5 and Title 5 CCR section 71396. Failure to provide all of the information requested will result in the application being rejected as incomplete. The information provided will be used to determine qualification of the applicant for registration by the Bureau for Private Postsecondary Education (Bureau) as an out-of-state private postsecondary educational institution. The information may be provided to other governmental agencies, or in response to a court order, subpoena, or public records request. You have a right of access to records containing personal information maintained by the Bureau unless the records are exempted from disclosure by law. For questions about this notice or access to your records, you may contact the Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95798, by phone at (916) 431-6959, or by email at bppe@dca.ca.gov.